



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,754	07/14/2003	Birgit Bossenmaier	39766-0114 A	3323
25213	7590	08/29/2007	EXAMINER	
HELLER EHRLMAN LLP			HOLLERAN, ANNE L	
275 MIDDLEFIELD ROAD				
MENLO PARK, CA 94025-3506			ART UNIT	PAPER NUMBER
			1643	
			MAIL DATE	DELIVERY MODE
			08/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 1643

Amended claims 23-28, 40-52 and 64-73 are now directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: in the original election of group II (see restriction requirement mailed 6/2/2006 and response filed 6/19/2006), applicants elected a method of detecting phosphorylation of ErbB receptors. Now with the amendment filed 6/8/2007, the election is drawn to methods of treatment (group VII) because the claims have been amended to add a step where either tumor cells or a subject is treated with an antibody. The originally elected invention was drawn to a method of detection (group II), and was restricted from the invention of group VII, which was drawn to methods of treatment that in some embodiments also contained a detection step. Thus, group VII and group II are related as combination and subcombination (see original restriction requirement).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-28, 40-52 and 64-73 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 6/08/2007 amending all claims so that they are no longer drawn to the elected invention and but instead are drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because they are drawn to methods of treatment, whereas the originally elected invention was a method of detection.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is

Art Unit: 1643

longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Holleran, whose telephone number is (571) 272-0833. The examiner can normally be reached on Monday through Friday from 9:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached on (571) 272-0832. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Official Fax number for Group 1600 is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Anne L. Holleran
Anne L. Holleran
ALANA M. HARRIS, PH.D.
PRIMARY EXAMINER
08/24/2017

Art Unit: 1643

Patent Examiner

August 24, 2007